



King County

**Department of
Natural Resources and Parks**

Director's Office

King Street Center

201 South Jackson Street, Suite 700
Seattle, WA 98104-3855

RECEIVED

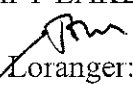
DEC 06 2006

Washington State
Department of Ecology

December 4, 2006

Tom Loranger
Department of Ecology
PO Box 47600
Olympia WA 98504-7600

RE: DRAFT LAKE TAPPS ROE

Dear Mr.  Loranger:

Thank you for offering time for informal comments on the latest draft Report of Examination (ROE) for the Lake Tapps Water right (Application S2-29934).

King County supports the provision of safe and reliable water supplies to the citizens of King County, and assurance that water will be left in streams to support the objectives of recently-completed watershed-based recovery plans for ESA-listed fish species. In particular, we support long-term regional planning to address water resource management comprehensively. This is particularly important as we face impending major changes to our environment, including its water resources, from global warming and climate change, while at the same time we anticipate major population and economic growth in King County and the Puget Sound region. We commend Ecology, and affected parties—including the Cascade Water Alliance (Cascade)—for the efforts reflected in this latest draft ROE to address long-range regional water management needs. We particularly appreciate the efforts to substantially improve flows in the bypass reach, to use source exchange as a vehicle for improving stream conditions in other parts of King County, and to emphasize the inclusion of conservation as an integral part of water supply management.

King County has interests that are or will be affected by this decision of Ecology's, with regard to both water supply and resource management. We offer the following comments and suggestions for this latest draft ROE to address those interests, or to clarify the intentions of Ecology and the affected parties

Regional Water Planning: We appreciate the linkages to statutorily-based planning requirements that are identified in Section 5.2.1, both with regard to individual water utility planning under Department of Health (DOH) regulations, and regional planning required under the Public Water System Coordination Act (Coordination Act). However, the provisions of Section 5.2.1 should be updated and clarified, as follows:

- Cascade and King County entered into an MOU with regard to regional water supply and water resource planning on February 8, 2005, and have been pursuing the planning outlined in that document, which should be referenced in the ROE
- Cascade has already prepared a Transmission and Supply Plan (TSP) to meet DOH requirements. The King County Council approved the TSP on November 13, 2006, and DOH formal approval should be coming shortly. This should be reflected in the ROE, and the schedule for Cascade's routine updates should reflect this.
- The King County ordinance approving the Cascade TSP (copy enclosed) includes a schedule agreed to by Cascade and King County for initiation and completion of a new or updated CWSP for Cascade. The ROE should add this information to the existing general language with regard to compliance with planning requirements under the Coordination Act
- We support the linkage to other regional planning processes, including GMA and salmon-recovery related processes. However, we do not know what the "Central Puget Sound Regional Water Resource Management Program" is, or what its legal basis is, and would appreciate some explanation of this.

Place of Use: The detailed recommendations for the permit contained in Section 5 of the ROE do not appear to say anything with regard to the Place of Use (POU) for the water supply. The discussion of the POU in Section 2.3.1 is outdated, and references a document (the 2001 Water Supply Outlook) that is currently being updated, and that incorporates service information from other planning documents for the purpose identifying either Urban Growth Areas (UGA's) or approved utility service areas. In addition, the proposed POU does not appear to reflect changes to state law made as part of the 2003 Municipal Water Law (MWL) (which links POU to approved water system plans and consistency with local planning). Updated POU information should be added to the recommendations in Section 5, and the approved POU should reference and be consistent with planning documents as outlined in state law (e.g., the MWL, the Coordination Act, and the GMA), with use of the water supply from the Lake Tapps project subject to those planning requirements.

Instream Flow Levels: The proposed instream flow levels (Section 5.3.5) clearly offer great improvement over the existing, temporary flows that have governed the hydropower diversions. However, it is not clear whether the referenced 10(j) flows from the fisheries agencies, developed as part of the hydropower licensing process that has now been abandoned by PSE, were (a) ever finalized by those agencies before the hydropower license application was withdrawn, or (b) reflecting any flow needs for other listed species (e.g., bull trout, and the

pending steelhead listing). The draft ROE should make this clear, and/or include any comments from those fisheries agencies with regard to the flows proposed in the ROE. To the extent there remain questions as to the sufficiency of those flows, the studies proposed by the Puyallup Tribe in its Adaptive Management Plan might provide an opportunity to address them before the water supply project becomes operational.

Relationship to the Hydropower Water Right Claim: It is not clear from the ROE whether the hydropower claim, which dates back to 1895, may be transferred to another party and revived to operate the still-extant hydropower facilities, and divert the full amount under the claim (up to 2000 cfs) without being subject to the instream flow requirements that will be imposed on the water right for the water supply project. The draft ROE makes clear (in Section 5.3.2) that the combined diversions under both the claim and the water supply water right could not exceed the 2000 cfs under the claim, and that the claim (by virtue of a change request filed in November 2005) may be used to maintain water quality in the lake and associated fish facilities—which we would support. We understand that there have been at least two filings with the FERC for licenses for the use of the PSE facilities at Lake Tapps. If the production of hydropower were to resume, will the diversions under the claim be subject to the higher instream flow requirements of the water supply project?

Land Conservation: King County very much supports the proposed transfer from PSE to the Cascade Land Conservancy of acreage along the White River that provides important habitat for wildlife. However, the proposed condition in Section 5.3.8 is not clear on this transfer, and does not appear to require it. King County would support clarification so that it reflects the discussion in Section 2.3.4.3.

Stream Gaging: The stream gage on the White River near Boise Creek was recently lost due to the pipeline replacement project in the river by Tacoma Public Utilities. Also, a source for the ongoing support for the continued maintenance and operation of the Boise Creek gage is unclear. Reliable flow gaging within this area of the White River and its tributaries is important to ensure that the stream flows prescribed in the draft ROE are actually being met in the bypass or tribal reach. King County suggests that support for the placement, operation and maintenance of gages pertinent to monitoring stream flows be a condition of the permit.

Tom Loranger
December 4, 2006
Page 4

Again, thank you for the opportunity to comment on the draft ROE. If you would like clarification of any of this letter, please feel free to contact me at (206) 296-3782.

Sincerely,

A handwritten signature in black ink, appearing to read "David Monthie". The signature is stylized with a large, looped initial "D" and a cursive "Monthie".

David Monthie
Regional Water Policy Analyst

Enclosure

cc: Mike Gagliardo, Cascade Water Alliance
Lloyd Warren, Cascade Water Alliance
Richard Reich, Muckleshoot Indian Tribe
Pam Bissonnette, Director, Department of Natural Resources and Parks

..Title

AN ORDINANCE approving the Cascade Water Alliance
Transmission and Supply Plan as a comprehensive water
plan, subject to specified conditions.

..Body

STATEMENT OF FACTS:

1. King County has adopted K.C.C. chapter 13.24 which requires approval of comprehensive plans for water and sewer utilities that distribute or obtain water, or provide sewer collection or treatment, in unincorporated King County as a prerequisite for operating in unincorporated King County, receiving approval for annexation proposals, being granted right-of-way franchises, and being given approval for right-of-way construction permits. K.C.C. section 13.24.060 prescribes the requirements for approval of such plans, including consistency with state and local planning requirements.
2. RCW 43.20.260 requires that water system plans for any new industrial, commercial, or residential use are to be consistent with the requirements of any comprehensive plans or development regulations adopted under chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town or county for the service area. King County has adopted a Comprehensive Plan that includes Water Supply policies in its provisions for Facilities and Services (Policies F-225 through F-244) that, *inter alia*, call for consistency with other adopted plans, support for regional water

supply planning, pursuit of reclaimed water and water conservation, and protection of water resources.

3. The Cascade Water Alliance (CWA or Cascade) is an intergovernmental organization formed through an interlocal agreement (ILA) under the authority of the Interlocal Cooperation Act, Chapter 39.34 RCW, by five general purpose local governments (cities of Bellevue, Issaquah, Kirkland, Redmond, and Tukwila) and three special purpose districts (Covington Water District, Sammamish Plateau Water and Sewer District, and Skyway Water and Sewer District) in King County. Cascade was formed in 1999, and is incorporated as a public, nonprofit corporation.
4. King County supports Cascade's Transmission and Supply Plan (TSP) as one of the key steps protecting the economy and quality of life of our region. Cascade's TSP carries out a number of important water resource policies in the County-wide Planning Policies and King County's Comprehensive Plan. Cascade and King County share a longstanding commitment to assuring adequate long term regional water supplies necessary for meeting the demands of growth while protecting our natural resources. Toward that end, both Cascade and King County support the implementation of regional water supply planning, and the best management of our water resources through such means as water supply sharing, water conservation and the wise use of reclaimed water. Cascade has been and continues to be a leader in advancing these shared objectives. Cascade partnered with King County as the co-conveners of the current regional water supply planning process that is and will be addressing many long-term water resource,

supply, and planning issues. In its ISP, Cascade describes measures to implement both conservation and reclaimed water strategies as part of an overall plan to assure water supplies for the next 20 years for the current 300,000 people that Cascade's members serve, as well as for the next 20 years of population growth, while longer term regional supplies are planned for and developed. Cascade's regional leadership on water issues, and the planning contained in its ISP, are consistent with and implement the water resource and water supply objectives of the region as expressed in Countywide Planning Policies adopted by all local governments in King County (see, e g , Policies CO-5, CO-6, CO-7, and FW-12(c)), and those adopted by King County in its Comprehensive Plan (see, e g , Policies F-233, F-235, F-236, and F-239).

5. Cascade supplies water to the combined service areas of its members, exclusive of the Covington Water District. Some of its members' service areas are within unincorporated King County. A number of Cascade members have service areas that are included in critical water supply service areas, and such members operate under comprehensive water system plans in areas that are part of coordinated water system plans that have been established under the authority of Chapter 70.116 RCW, the Public Water System Coordination Act of 1977 (Water Coordination Act). Cascade members have service areas that are in three of the four King County approved coordinated water system plan service areas. The plans relevant to the Cascade members are plans for East King County (adopted in 1990, and updated/amended in 1994 and 1998); South King County

(adopted in 1990, and not updated/amended); and Skyway (adopted in 1990, and updated/amended in 2000). These plans, and their updates, have been approved by ordinance by King County, and have been incorporated into the King County Code (chapter 13.28). Washington State Department of Health (DOH) rules (WAC 246-293-280) require that the plans be reviewed and updated as necessary every five years. Under a February 2005 Memorandum of Understanding (MOU), Cascade and King County agreed that these plans should be updated.

6. Cascade is a regional water supplier to each of its members that combined serve a population in excess of 300,000 with service areas that include some of the fastest growing residential areas in King County. Under the ILA, Cascade is obligated to meet all current and future supply needs of its members, after accounting for the supplies of each individual member. Cascade currently has contracts with Seattle Public Utilities (SPU) and Tacoma Public Utilities (TPU) to provide both term-limited and permanent sources of supply to Cascade and its members. Cascade is also pursuing a long-term permanent source of supply for its members and forecasts Lake Tapps as a potential source of such water supply. Under the ILA, Cascade is obligated to plan for its members water supply needs, such planning to be compatible with the requirements of the Growth Management Act (GMA). The members of Cascade are obligated to actively participate in the planning process, and each member's plan is

required to be consistent with any plan adopted by Cascade, and consistent with applicable requirements of the GMA and comprehensive plans.

7 As a wholesale water supplier, Cascade does not own or operate facilities for delivering water directly to retail customers. The only facility it currently owns is the recently-completed intertie between Bellevue and Issaquah, which is operated by Issaquah. However, it anticipates major capital investments of between \$402 million and \$481 million over the next 20 years to deliver water from (1) the TPU Second Supply pipeline to Cascade members by 2008, and (2) the Lake Tapps Water Supply Project to Cascade members by 2024. The range has to do with different potential alignments and routes, and different sizes and combinations of pipes, all of which are currently under evaluation. For the initial six years covered by the TSP, Cascade anticipates capital expenditures of between \$196.6 million and \$241 million, depending on decisions made relative to alternative pipeline routes and sizes.

8. The Cascade Transmission and Supply Plan is a comprehensive water plan, as defined in King County Code Chapter 13.24, which identifies Cascade as a regional supplier of water to its eight members, which are independent public water systems. The TSP covers a six-year planning period, 2004-2009, and a 20-year period, 2004-2023, as required by the regulations of DOH.

9. The February 2005 MOU outlined both parties' intent to participate in a planning process to address King County's longstanding policy in support of developing a statutorily recognized countywide water supply plan (as per King County Comprehensive Plan Policies F-233 through F-235), and Cascade's obligation to comply with the water system planning requirements of its ILA and those requirements of King County and DOH. In accordance with the terms of the MOU, and in consultation with DOH and King County, Cascade developed a draft transmission and supply plan intended to meet those requirements, and submitted it to King County for review and approval, pursuant to the terms of the MOU. King County agreed to review the TSP based upon criteria and procedures for all water system plans that are described in King County rules, the King County Comprehensive Plan, the King County Code, and King County's legal authorities. King County and Cascade also initiated a regional water supply planning process for King County, and potentially a broader tri-county area, that is currently managed by a multi-stakeholder "Coordinating Committee" that includes, *inter alia*, King County, Cascade, Seattle Public Utilities, the city of Auburn, the Washington Environmental Council, three state agencies, and other interested local governments, utilities and parties. That planning process is intended to address priority issues for King County, Cascade and other participants, including the use of reclaimed water as a source of supply, updating regional water demand forecasts, develop water supply alternatives,

impacts from climate change, and assuring adequate instream flows for fish. That process has an objective of completion by December 2007, but will not alone meet the standard of being statutorily based. However, it is intended that the products of this process at least in part be reflected in a statutorily recognized comprehensive water system plan.

10. A determination of non-significance for the Cascade TSP was issued by Cascade on March 30, 2005, in accordance with the State Environmental Policy Act.

11. The King County utilities technical review committee (UTRC) reviewed the TSP at its June 8, 2005, meeting, and conditionally approved it, subject to satisfactory responses to issues and questions raised by the UTRC that generally concerned population and demand forecasts; predicted levels of water conservation; specific opportunities of Cascade members for use of reclaimed water; and the relationship between Cascade and its members with regard to meeting regulatory requirements and assuring adequate supplies. The UTRC conditionally approved the TSP, subject to changes made to address the issues and concerns identified by the UTRC.

12. On September 28, 2005, the Cascade Board of Directors adopted a final TSP after making changes to respond to the UTRC and DOH comments. In February 2006, Cascade provided King County with a formal letter that satisfactorily clarified and explained the changes made in

the final TSP in response to the UTRC issues and concerns, and addressed the conditions of approval identified by the UTRC.

13. In acting upon the TSP, the UTRC certified that the TSP, once changes were made to address UTRC issues and concerns, met and was consistent with the following key requirements for comprehensive water system plans: (a) the infrastructure and proposed water service to the service areas of the Cascade members were consistent with adopted land use plans and development regulations for King County [K.C.C. 13.24.010; K.C. Comprehensive Plan Policy F-240]; (b) the Cascade members had the ability and intention to meet their duty to serve within their entire utility area [K.C.C. 13.24.010]; (c) the provisions of the TSP met the regulatory and planning requirements of DOH [K.C.C. 13.24.010]; (d) identifying opportunities for reclaimed water by the Cascade members, and a strategy for pursuing them [K.C.C. 13.24.010]; (e) addressing other relevant planning processes, including salmon recovery, groundwater management, and Endangered Species Act compliance [K.C.C. 13.24.060; K.C. Comprehensive Plan Policy F-240]; (f) commitment to engage in regional water supply planning [K.C. Comprehensive Plan Policies F-233 through F-235]; (g) using utility system interties for effective water management [K.C. Comprehensive Plan Policy F-236]; and (h) including a Cascade-wide strategy for a strong water conservation program, built on a conservation potential assessment [K.C. Comprehensive Plan Policy F-239]. The King County Code also requires individual plans be consistent

with the Water Coordination Act [K.C.C. 13.24.060]. In the February 2005 MOU with King County, Cascade acknowledged that the existing CWSP's were outdated, and stated its support for initiation of planning under the Coordination Act, and its support and willingness to participate in a process for updating the Coordinated Water System Plans, in order to facilitate approval of its TSP. Initiation of planning under the Coordination Act, and the completion of a new plan or updated plans within two years of initiation will meet this objective.

14. On October 31, 2005, the Scoping Committee for the regional water planning process adopted a "Planning Framework" (Framework) for the scope and structure of the regional planning efforts. The Framework included a recognition that the King County council would initiate a process for updating CWSP(s) that would begin no sooner than twelve months after the Framework was adopted, i.e., October 2006. The Framework also recognized that Cascade and King County intended to develop or update relevant CWSP(s) for Cascade that would be limited to key elements of Cascade's proposed system and the incorporation of reclaimed water. The Framework also stated that other utilities would be encouraged but not compelled to participate in the limited CWSP process that Cascade and King County intended to pursue. In subsequent meetings among DOH, Cascade, and King County, DOH agreed that Cascade and King County could initiate and pursue planning under the Water Coordination Act by either amending the boundaries of existing

coordinated water system plans in which Cascade members provide service, or by creating a new critical water supply service area for Cascade that would include all member service areas. DOH confirmed this interpretation by letter in July 2006.

15. On December 14, 2005, DOH sent a letter to Cascade, informing it of comments and conditions that must be addressed by Cascade prior to DOH approval of the TSP. One of those conditions was receipt of a copy of a King County ordinance approving the TSP in accordance with the provisions of the MOU.

16. Cascade, as a preliminary step in its efforts to obtain a long term source of water supply, has entered into a memorandum of understanding with Puget Sound Energy (PSE) to acquire PSE's facilities and water rights associated with PSE's facilities and properties on Lake Tapps. Although mentioned as a potential future water supply source for Cascade, the Lake Tapps water supply project is not identified as delivering water within the twenty year planning horizon required by state law. Before Lake Tapps becomes a source of water supply for Cascade and its individual members, Cascade must meet planning and permitting requirements, including, but not limited to: (a) Cascade must acquire PSE's Lake Tapps facilities and properties including all water rights associated therewith; (b) the Washington State Department of Ecology must issue new water rights for use of Lake Tapps as a municipal water supply source, and Cascade must meet any conditions applicable to the

issuance of such rights; (c) Cascade must include the Lake Tapps water supply project within an updated comprehensive water system plan; and (d) the State Department of Health must approve Lake Tapps as a drinking water source.

17. The King County executive has recommended approval of the ISP as a comprehensive water system plan subject to specified conditions. These include that Cascade continue participation in and support of regional water resource and supply planning efforts, and initiation of planning under the Coordination Act, as referenced by the February 2005 MOU with King County. Cascade should participate with King County and other interested parties in planning efforts under the Water Coordination Act to either revise existing critical water system plans in which Cascade members have service areas or to create a new critical water supply service area and critical water system plan for Cascade and its members that would include all members and all member water service areas, and such planning processes should be completed within 2 years of initiation of the process by the county. Cascade has recently expressed support for such a process. (See Attachment B)

18. The executive has also recommended that approval of the TSP as a comprehensive water plan does not include Lake Tapps as a source of drinking water supply for Cascade or its individual members within the 20-year planning horizon of the TSP. In the event that Lake Tapps is identified as a source of drinking water supply for Cascade or its

individual members within a 20-year planning horizon, Cascade shall amend the TSP and, as necessary, any critical water supply plans covering areas that are to be serviced by Lake Tapps as a source of drinking water supply

19. The executive has further recommended that any King County franchises or right of way permits that may be authorized or issued subsequent to the approval of the TSP should be limited to the use of county rights-of-way and real property interests necessary to construct, maintain, and operate facilities that will deliver water to Cascade members or customers from supply sources identified within the 20-year planning horizon of the TSP.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. The Cascade Water Alliance Transmission and Supply Plan, Attachment A to this ordinance, is hereby approved as a comprehensive water plan, subject to the following conditions:

A. Cascade shall continue its participation and support of regional water resource and supply planning as referenced by the February 2005 MOU with King County;

B. Cascade shall participate with King County in planning efforts under the Water Coordination Act by completing within a two year period from the initiation of the planning process by the County either 1) revisions to existing critical water supply plans in which Cascade members have service areas or 2) a new critical water supply service

area and plan for Cascade and its members that shall include all members and cover all member service areas

C In accordance with the applicable provisions of the King County Code and state law, the comprehensive water system plans of the individual members of Cascade shall be brought in a timely manner into consistency with the terms of the TSP, as amended from time to time, including the provisions regarding reclaimed water and water conservation.

D This approval of the TSP as a comprehensive water plan shall does not include Lake Tapps, as a source of drinking water supply for Cascade or its individual members within the 20-year planning horizon of the TSP. At such time within the applicable either six-year or 20-year planning horizon that Lake Tapps, becomes an identified source of drinking water supply for Cascade, Cascade shall submit a revised comprehensive water plan identifying and reflecting such source; and such plan shall meet and be consistent with the requirements of DOH and if applicable, the King County Code and the Water Coordination Act and implementing regulations for amending or establishing plans under the Water Coordination Act.

E. All individual members of Cascade that are identified in the revised comprehensive water plan referred to in subsection (d) above as having a new source of drinking water supply shall incorporate such new source into their water supply plans when and as required by law, including any applicable provisions of the King County Code.

F. All revised plans referred to in subsections d., and e., above shall fully comply with all requirements of the State Environmental Policy Act, Chapter 43.21C RCW, and implementing regulations.

G. Any King County franchises or right of way permits that may be authorized or issued subsequent to this approval of the TSP shall be limited to the use of County rights-of-way and real property interests necessary to construct, maintain, and operate facilities that will deliver water to Cascade members or customers from supply sources identified within the 20-year planning horizon of the TSP.

Attachments: A. Cascade Water Alliance 2004 Transmission and Supply Plan.

B. Cascade Water Alliance Resolution No. 2006-15.

C. Memorandum of Understanding on Water Resource and Supply Planning Between Cascade Water Alliance and King County, Washington, February 8, 2005.



CASCADE WATER ALLIANCE
RESOLUTION No. 2006-15

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CASCADE WATER ALLIANCE, A WASHINGTON NONPROFIT CORPORATION, IN SUPPORT OF THE KING COUNTY EXECUTIVE INITIATING PLANNING UNDER THE PUBLIC WATER SYSTEM COORDINATION ACT

WHEREAS, the Cascade Water Alliance (Cascade) is a Washington Nonprofit Corporation composed of municipal corporations and special purpose Municipal Corporations which is organized under authority of the Interlocal Cooperation Act (Chapter 39.34 RCW) for the purpose of providing water supply to meet the growing demands of its Members; and

WHEREAS, the Cascade Water Alliance (Cascade) and King County (the County) entered into a Memorandum of Understanding on Water Resource and Supply Planning (the MOU) in February 2005; and

WHEREAS, the Board of Directors (the Board) of Cascade adopted a Transmission and Supply Plan (the TSP) in September 2005 and the King County Executive has recommended that the County Council approve the TSP; and

WHEREAS, a Scoping Committee, whose members included both Cascade and King County, was convened by the County in July 2005, in accordance with the MOU, and, in October 2005 produced a "Planning Framework" for water planning in King County and the broader region; and

WHEREAS; the Planning Framework contained a target date of September 2006 for a decision by the County and Cascade to trigger a planning process under the Public Water System Coordination Act (the Coordination Act), which at a minimum would cover the service areas of Cascade Members and be initiated no earlier than October 31, 2006.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CASCADE WATER ALLIANCE as follows:

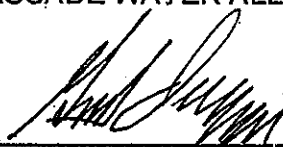
Section 1. The Board of Directors of the Cascade Water Alliance supports the approval of the Cascade Transmission and Supply Plan by the King County Council, by ordinance in substantially the form as attached hereto as Exhibit A; and

Section 2. The Board of Directors of the Cascade Water Alliance requests the timely initiation by the King County Executive, of regional water resource planning under the Public Water System Coordination Act, in order to either revise existing critical water system plans in which Cascade Members have service areas or to create a new critical water supply service area and plan that would cover the service areas of Cascade and all its Members, such planning process should be completed within two years of initiation; and

Section 3. Cascade will support and participate in the planning process initiated by the King County Executive, in accordance with the provisions of section 2 above, the Cascade/County MOU and applicable law, and will also encourage its individual Members to support and participate in the process.

ADOPTED AND APPROVED by the Board of Directors of the Cascade Water Alliance at a regular meeting thereof, held on the 25 date of October, 2006.

CASCADE WATER ALLIANCE



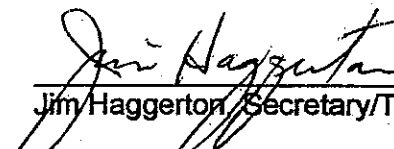
Grant Degginger, Chair



Attest – Michael Gaigliardo, General Manager



Lloyd Warren, Vice Chair



Jim Haggerton, Secretary/Treasurer

ATTACHMENTS:

Exhibit A

Draft Ordinance of the King County Council approving the Cascade Water Alliance Transmission and Supply Plan as a comprehensive water plan, subject to specified conditions.

Members

Yes 0

No 0

Demand Share

Yes 100 %

No 0 %



**Memorandum of Understanding
on
Water Resource and Supply Planning
Between Cascade Water Alliance and
King County, Washington
February 8, 2005**



I. Parties

Cascade Water Alliance (Cascade) is a nonprofit intergovernmental organization created by an Interlocal Contract (the Interlocal) effective April 1, 1999 (as amended and restated) to exercise certain essential governmental functions with respect to water supply on behalf of its Members as authorized by the Interlocal Cooperation Act Chapter 39.34 of the Revised Code of Washington (RCW).

King County is a political subdivision of the State of Washington, organized as a home rule charter county under Article XI, Section 4 of the Washington State Constitution. Under the King County Charter and a variety of state laws, King County exercises governmental authorities over comprehensive planning, natural resource management, and provision of public services within the County and in the region.

II. Parties' Respective Responsibilities and Interests

A. King County

King County has planning authorities and responsibilities under the Growth Management Act (GMA) of Chapter 36.70A RCW, and for water utility and water supply planning and service delivery under the Public Water System Coordination Act (Coordination Act) of Chapter 70.116 RCW for critical water supply service areas (CWSSA) as designated or modified in accordance with the Coordination Act. Under the Coordination Act, King County shares authority with the Washington Department of Health (Health) to assist water purveyors by coordinating the planning of public water supply systems.

In carrying out its authority under the Coordination Act, King County has previously declared four areas within King County, specifically South King County, Skyway, Vashon, and East King County, to be CWSSA. King County has ratified a Coordinated Water System Plan (CWSP) for each of these areas. Health subsequently approved each CWSP. King County believes that all four of these plans should be reviewed and updated as authorized and necessary under the Coordination Act to achieve the following:

- Consistency and compliance with current provisions of state law;
- Incorporation of updated water supply planning documents, including Cascade's Transmission and Supply Plan once approved;

- Ensuring the planned and coordinated delivery of safe and reliable water throughout King County in order to meet the population and economic growth needs identified under GMA through credible, objective, transparent and accessible methodologies for projecting future demands;
- Assessment of the feasibility of proposals for shared source, transmission, storage facilities, and interties;
- Support for the development of long-term water supply capacity by water systems within King County to deliver safe and reliable water; and
- Clarification of processes and responsibilities for addressing failing water systems in order to protect King County's interests as potential receivers of last resort for any failing public water system within King County.

King County also believes that planning for future water uses and water supply choices must consider the requirements of the federal Endangered Species Act (ESA), acknowledge and respect Tribal rights, support the objectives of salmon recovery plans nearing completion in all of King County's watersheds, accounting for changes in demand and supply due to climate change and integrate water conservation and the use of reclaimed water to the maximum extent feasible and appropriate.

King County believes that comprehensive planning for GMA, water supply, salmon recovery, and resources management processes should be a part of the development of any significant new major regional sources of supply. King County has not taken any position in support of, or opposition to, any proposed major new regional source of supply. It remains committed to a public process that evaluates alternatives for meeting the long term supply needs of King County and the region. The process should include Tribes, state agencies, regional elected officials business and environmental interests, and affected residents and members of the public.

B. Cascade Water Alliance

Cascade has an obligation to meet the long-term needs for wholesale water supply of its Member water systems, while complying with local, state and federal regulations, and terms and conditions of the Interlocal among Cascade Members, and existing contracts with other entities. As a public water system, Cascade also has the responsibility to demonstrate that it has the capacity to meet the needs of its Members as required by the federal Safe Drinking Water Act. The Membership of Cascade currently includes the City of Bellevue, the Covington Water District, the City of Issaquah, the City of Kirkland, the City of Redmond, the Sammamish Plateau Water & Sewer District, the Skyway Water & Sewer District, and the City of Tukwila.

Cascade's Members have the responsibility under GMA for providing water supply services to the residents and businesses within their service areas. Cascade adopted an Action Plan and Plan for Regional Water Supply in 2002 as the initial planning documents for the development of a Cascade Supply System which will provide wholesale water supply to meet the future demands of Cascade Members. The major components of a Cascade Supply System are

- Block Contract with the City of Seattle;
- Wholesale purchase of water from the City of Tacoma;
- Acquisition and development of regional transmission assets; and
- Development of the Lake Tapps Reservoir (Lake Tapps) as a municipal water supply.

Cascade and Puget Sound Energy (Puget) have entered into a Memorandum of Understanding under which Cascade has the exclusive right to negotiate acquisition from Puget of the water right(s) acquired by Puget under Washington Surface Water Applications S2-29920 and S2-29934, and Reservoir Water Application R2-29935. Cascade intends to develop Lake Tapps to meet the identified future water supply needs of its Members and will consider how Lake Tapps may meet a portion of the other regional water supply needs.

Cascade believes that coordinated planning efforts among its Members, King County, and other utilities throughout the Central Puget Sound Region is necessary to ensure that water supply is provided in a cost-effective and environmentally sound manner. Cascade recognizes the need for salmon recovery planning in King County and for the Puget Sound Region. Its membership includes general purpose governments that are participants in development of salmon recovery plans within King County watersheds.

Cascade recognizes that its water supply planning efforts must be consistent with state law and Health requirements, including the Coordination Act. Cascade recognizes that King County has a role in reviewing Cascade's Transmission and Supply Plan (TSP). Cascade's interest is that this review be conducted on an expedited schedule. Criteria for plan approval should be clearly defined in applicable statutes, rules, and/or adopted policies and should be consistent with criteria applied to other water systems that have similar responsibilities as Cascade.

III. Purpose of Agreement and Statement of Intent

King County and Cascade intend to participate collaboratively in water supply planning as it relates to issues of mutual interest. Such planning will be conducted through public processes with opportunities for involvement and/or comment by the public, elected officials, and other interested parties. Cascade supports the initiation of planning under the Coordination Act for this purpose. Both King County and Cascade recognize the special role of Tribes as sovereign governments and co-managers of fisheries resources and as holders of water rights under treaties or federal law.

King County and Cascade also recognize that collaborative planning, which includes a variety of strategies, is necessary in times of drought or water shortage.

IV. Planning Activities

A. Comprehensive Water Resources and Supply Planning

- The potential impacts on sources of supply due to global warming or drought;
- Any revisions necessary to water utility service area boundaries;
- Long-term water system capacity, particularly for small systems, to meet federal, state, and local requirements, and strategies to address potentially failing systems;
- Use of satellite management for small systems and rural water supply delivery;
- Strategies to increase the use of reclaimed water and other alternative sources of supply;
- Comprehensive approaches and strategies for water conservation; and
- Issues under the Municipal Water Law (MWL) for which comprehensive strategies may be appropriate.

State law requires that an analysis be done within the CWSP development process for compliance with the State Environmental Policy Act (SEPA). The nature and scope of the analysis will be determined at the appropriate time in the planning process.

C. Cascade Transmission and Supply Plan

As a public water system, Cascade is subject to the relevant planning requirements of Health and of King County. Cascade is currently preparing a Transmission and Supply Plan (TSP) to meet the requirements of Chapter 246-290-100 Washington Administrative Code (WAC). As a wholesale water supplier for its Members, Cascade does not have direct service (retail) customers. The TSP will focus on the services Cascade provides its Members and defer to individual Member plans for other required planning elements. Cascade anticipates submitting this TSP for review and approval in early 2005 to Health and to King County. Cascade and King County recognize and intend that:

- (1) King County and Cascade have discussed the TSP in advance of Cascade's preparation of the TSP. These discussions have included the scope, elements, and timing of the TSP. In addition, King County and Cascade held joint meetings with Health and Ecology to discuss these matters. The purpose of these discussions has been to develop as much clarity as possible with regard to the relevant planning requirements for Cascade and its authorized activities under the Interlocal. These discussions, the resulting outline of the TSP shared between the Parties, and this MOU reflect the general expectations for the TSP. Cascade will utilize the input provided by King County in preparing the TSP. King County will make its best efforts to expedite its review of the draft TSP document with the intent of meeting the schedule milestones outlined below.
- (2) Cascade and King County recognize that the ultimate approval of substance and timing for both the TSP and CWSP is the responsibility of Health.
- (3) Criteria for review of the TSP by King County will be based on current law. This will include the MWL and applicable regulations and guidelines

developed by Health that are applicable at the time of the TSP is submitted to King County and Health for approval;

- (4) King County will review the TSP based upon criteria and procedures for all water system plans that are described in King County rules, the King County Comprehensive Plan (recently updated), the King County Code, and King County's legal authorities. To the extent these criteria have been or will be updated in response to passage of the MWL, or revisions to the King County Comprehensive Plan, King County will provide Cascade and its individual Members with specific explanations and interpretations as necessary of updated or revised criteria, consistent with its practice to provide such explanations to any utility requesting them as part of King County's plan review process. Cascade will notify the County 45 days prior to its anticipated submittal date for the TSP. Within 14 days of such notification, the County shall provide Cascade with any changes to the current review/approval criteria or procedures that have occurred or been developed since January 1, 2005...
- (5) Consistent with the MWL, Cascade will meet the requirements of Health, as they currently exist or are revised or updated by Health, with regard to water conservation;
- (6) Cascade anticipates purchasing water in the near future from Tacoma Public Utilities (TPU). Cascade plans to initiate design and construction of a pipeline to convey water from TPU's Second Supply Project in 2005.
- (7) The TSP will:
 - a. Identify Lake Tapps as one alternative for meeting long-term water supply needs of Cascade beyond the 20-year planning horizon. However, a range of additional alternatives will also be identified and discussed to meet the near term demands;
 - b. Include a discussion of how Cascade and its Members plan to use reclaimed water as a resource to meet long-term water supply needs, as well as recognizing limitations on availability or feasibility of using reclaimed water. King County will assist Cascade by providing information on its own sources of reclaimed water and potential uses of reclaimed water; and
 - c. Discuss in general terms how Cascade can contribute to improving stream flow as part of salmon recovery planning, and specifically for the benefit of species of fish listed under the ESA within its Members' service areas.
- (8) Cascade will work with its individual Members to include or reference the elements listed under Item (7) above, and system-specific strategies for addressing them in each Members' water system plan. In addition, the provisions of updated and adopted CWSPs will be incorporated as Member

Plans and Cascade's TSP are updated. Cascade, its Members, and King County may agree that detailed descriptions of selected items to be included in the Cascade TSP may be deferred in individual water system plans. In this event, as a condition of approval of a Member's water system plan, the individual Members and Cascade will agree to incorporate detailed descriptions of such items into updates that will be completed before the six-year update.

(9) Cascade will work with its Members and Health to coordinate development of complementary elements of Members' water system plans and Cascade's TSP, prior to the next update to the Cascade TSP. This may include, for example, demand forecasts and capital facilities that are integral to meeting Cascade's supply obligations to each Cascade Member.

(10) Cascade and King County recognize that Health and Ecology have independent RCW authorities related to water supply planning and that the foregoing understandings may be modified or superseded by directions, orders, or positions of those two state agencies.

V. Process for Moving Forward and Inclusion of Interested Parties

Cascade and King County are entering into this MOU with good-faith intent to complete identified planning on the schedule outlined. Cascade and King County will seek to include interested parties in these processes to ensure that the process is open and inclusive....

Cascade and King County will establish a Steering Committee of senior management staff of the two parties to develop an effective process for furthering the objectives of this MOU. The Steering Committee will formally convene no later than February 15, 2005 and will establish a schedule, funding mechanism and outreach process to carry out the objectives listed above. Both Cascade and King County will prepare materials for the initial and subsequent meetings of the Steering Committee

VI. Process for Amending this Memorandum of Understanding


The two Parties may jointly agree to amend this MOU. Nothing in this agreement is intended to limit the ability of either Party to pursue its interests in any litigation or administrative proceeding. In the event that planning requirements or water resource management responsibilities of either Party are significantly altered by a court decision, new State legislation, or other legal processes, the Parties agree to modify this MOU to reflect such changes as they apply to both Parties.

VII. Enforceability

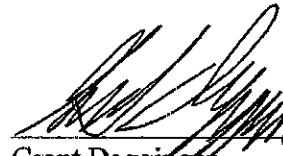
This MOU is not legally binding on either Party, but is intended to (1) identify each Party's interests in the water resources and supply planning processes, (2) memorialize

the Parties' general understandings as to how that process should and will be carried out in a good-faith manner, and (3) establish a tentative schedule for implementing the planning process.

Nothing in this MOU is intended to bind either Party to supporting or endorsing the final outcome of individual planning programs described in the MOU nor to supplant, revise, or derogate from the lawful authority of the King County Council, the Cascade Board of Directors, the legislative bodies of Cascade Members, or of the departments or agencies of the government of the State of Washington.

 2-8-2005

Ron Sims Date
King County Executive

 2/8/05

Grant Degginger Date
Chair, Board of Directors
Cascade Water Alliance

